

PLEASE NOTE: In most BUT NOT ALL instances, the page and line numbering of bills on this web site correspond to the page and line numbering of the official printed version of the bills.

Conference Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HOUSE BILL 2460

AN ACT

AMENDING SECTION 28-2154, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 7, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-2154.01; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO MOTOR VEHICLE REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-2154, Arizona Revised Statutes, is amended to
3 read:

4 28-2154. Special registrations

5 A. A nonresident who purchases an unregistered vehicle in this state
6 for removal to the state of residence of the purchaser ~~may~~ SHALL obtain a
7 special thirty day nonresident registration ~~of~~ PERMIT FOR the vehicle. The
8 nonresident ~~may~~ SHALL obtain ~~this~~ THE special THIRTY DAY NONRESIDENT
9 registration PERMIT by applying to the department, TO AN AUTHORIZED THIRD
10 PARTY or to a motor vehicle dealer as defined in section 28-4301 and by
11 paying the fees prescribed by section 28-2003. AN AFFIDAVIT IN A FORM
12 PRESCRIBED BY THE DIRECTOR SHALL ACCOMPANY the application AND shall ~~include~~
13 ~~an affidavit of the purchaser containing~~ CONTAIN the following statements:

14 1. The purchaser is not a resident of this state as defined in section
15 28-2001. FOR THE PURPOSES OF THIS SECTION AND SECTION 28-2154.01, THE
16 PURCHASER SHALL PRESENT TO THE DEPARTMENT, AN AUTHORIZED THIRD PARTY OR A
17 MOTOR VEHICLE DEALER, A DRIVER LICENSE OR OTHER EVIDENCE PRESCRIBED BY THE
18 DIRECTOR SHOWING THAT THE PURCHASER IS NOT A RESIDENT OF THIS STATE.

19 2. The vehicle is purchased to be registered out of state WITHIN
20 THIRTY DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY NONRESIDENT
21 REGISTRATION PERMIT.

22 3. The vehicle is not purchased for transfer to a resident of this
23 state.

24 4. THE PURCHASER IS LIABLE FOR ANY TAX, PENALTY AND INTEREST THAT IS
25 DUE UNDER TITLE 42, CHAPTER 5 IF THE PURCHASER REGISTERS THE VEHICLE IN THIS
26 STATE WITHIN THREE HUNDRED SIXTY-FIVE DAYS AFTER THE ISSUANCE OF THE SPECIAL
27 THIRTY DAY NONRESIDENT REGISTRATION PERMIT.

28 ~~4.~~ 5. Other information that the director deems necessary.

29 B. At the time of application for a special thirty day nonresident
30 registration PERMIT, the purchaser shall submit for inspection proper
31 evidence of ownership of the vehicle to be registered. The special THIRTY
32 DAY NONRESIDENT registration PERMIT is valid for not more than thirty days
33 from the date of issuance and ~~may~~ SHALL be ~~evidenced~~ in the form PRESCRIBED
34 BY the director ~~deems necessary or advisable~~. A person who obtains a SPECIAL
35 THIRTY DAY nonresident registration PERMIT on a semitrailer that has been
36 manufactured in this state may use the semitrailer for commercial purposes if
37 the semitrailer is being used to transport goods from this state, subject to
38 the payment of any taxes prescribed by this title.

39 C. An enrolled member of an Indian tribe who resides on the Indian
40 reservation established for that tribe and who purchases an unregistered
41 vehicle in this state for removal to the Indian reservation ~~may~~ SHALL obtain
42 a special thirty day NONRESIDENT registration permit for the vehicle. The
43 member may obtain ~~this~~ THE special THIRTY DAY NONRESIDENT registration PERMIT
44 by applying to the department, TO AN AUTHORIZED THIRD PARTY or to any motor
45 vehicle dealer as defined by section 28-4301 and by payment ~~by the motor~~
46 ~~vehicle dealer~~ of the fees prescribed by section 28-2003.

1 D. A resident who does not have complete documentation for issuance of
2 an Arizona title and registration on a noncommercial vehicle but who has
3 established ownership of the vehicle to the satisfaction of the department
4 may receive a special ninety day resident registration by applying and paying
5 the fee prescribed by section 28-2003 to the department. The basis of
6 assessment for the full annual registration fee and vehicle license tax
7 relates back to the date of issuance of the first special ninety day resident
8 registration.

9 E. A resident may receive a second consecutive special ninety day
10 resident registration on application and payment of the fee prescribed by
11 section 28-2003 if:

12 1. The person has applied for a bonded title and the title has not
13 been issued during the first ninety day registration.

14 2. The person is awaiting settlement of an estate.

15 3. The person is awaiting lien clearance.

16 4. The person is awaiting a hearing decision as a result of a title
17 complaint.

18 5. The person is awaiting the issuance of honorary consular official
19 special license plates.

20 6. The director determines other circumstances justify the issuance.

21 F. At the discretion of the director, a resident may receive more than
22 two consecutive special ninety day resident registrations for a vehicle in a
23 twelve month period.

24 G. If there is a judgment against a resident of this state in another
25 state that requires suspension of the resident's vehicle registration, in
26 lieu of suspension of the resident's vehicle registration the department may
27 issue a special temporary registration for the resident's vehicle that is
28 valid for a period of not more than one hundred eighty days.

29 Sec. 2. Title 28, chapter 7, article 5, Arizona Revised Statutes, is
30 amended by adding section 28-2154.01, to read:

31 28-2154.01. Special thirty day nonresident registration
32 permits; procedures

33 A. A DEALER OR AN AUTHORIZED THIRD PARTY THAT ISSUES A SPECIAL THIRTY
34 DAY NONRESIDENT REGISTRATION PERMIT PURSUANT TO SECTION 28-2154 SHALL SEND AN
35 ELECTRONIC RECORD OF THE PERMIT TO THE DEPARTMENT THROUGH AN AUTHORIZED THIRD
36 PARTY OR THROUGH THE DEPARTMENT'S AUTHORIZED THIRD PARTY ELECTRONIC SERVICE
37 PROVIDER.

38 B. THE DEPARTMENT, AN AUTHORIZED THIRD PARTY OR A DEALER SHALL NOT:

39 1. ISSUE, ASSIGN OR DELIVER A SPECIAL THIRTY DAY NONRESIDENT
40 REGISTRATION PERMIT TO ANY PERSON OTHER THAN A BONA FIDE PURCHASER OR
41 AUTHORIZED REPRESENTATIVE OF A BONA FIDE PURCHASER OF A VEHICLE WHO IS NOT A
42 RESIDENT AS DEFINED IN SECTION 28-2001.

43 2. ISSUE A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT UNLESS
44 THE PURCHASER FILES AN AFFIDAVIT AS PRESCRIBED IN SECTION 28-2154 AND
45 PROVIDES ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT OF TRANSPORTATION
46 OR THE DEPARTMENT OF REVENUE.

1 3. ISSUE AND AFFIX, AS PRESCRIBED IN SUBSECTION C OF THIS SECTION, A
2 SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT UNLESS THE PERMIT IS
3 RECORDED IN THE ELECTRONIC RECORDS OF THE DEPARTMENT.

4 C. A PERSON WHO ISSUES A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION
5 PERMIT SHALL AFFIX OR INSERT, CLEARLY AND INDELIBLY, ON THE FACE OF EACH
6 PERMIT THE DATE OF ISSUANCE AND EXPIRATION AND THE MAKE AND VEHICLE
7 IDENTIFICATION NUMBER OF THE VEHICLE. THE SPECIAL THIRTY DAY NONRESIDENT
8 REGISTRATION PERMIT SHALL NOT BEAR THE NAME OR ADDRESS OF THE PERSON WHO
9 PURCHASED THE VEHICLE IN A POSITION THAT IS LEGIBLE FROM OUTSIDE OF THE
10 VEHICLE.

11 D. A DEALER OR AUTHORIZED THIRD PARTY WHO ISSUES A SPECIAL THIRTY DAY
12 NONRESIDENT REGISTRATION PERMIT SHALL MAINTAIN A RECORD, IN A FORM PRESCRIBED
13 BY THE DIRECTOR, OF ALL SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMITS
14 ISSUED BY THE DEALER OR AUTHORIZED THIRD PARTY AND A RECORD OF OTHER
15 INFORMATION PERTAINING TO THE ISSUANCE OF SPECIAL THIRTY DAY NONRESIDENT
16 REGISTRATION PERMITS THAT THE DEPARTMENT OF TRANSPORTATION OR THE DEPARTMENT
17 OF REVENUE REQUIRES.

18 E. THE DEALER OR AUTHORIZED THIRD PARTY SHALL KEEP EACH RECORD FOR AT
19 LEAST THREE YEARS AFTER THE DATE OF ENTRY OF THE RECORD.

20 F. A DEALER OR AUTHORIZED THIRD PARTY SHALL ALLOW THE DIRECTOR OF THE
21 DEPARTMENT OF TRANSPORTATION OR THE DIRECTOR OF THE DEPARTMENT OF REVENUE
22 FULL AND FREE ACCESS TO THE RECORDS DURING REGULAR BUSINESS HOURS.

23 G. THE ELECTRONIC RECORD IS WRITTEN NOTICE OF THE REMOVAL OF THE
24 VEHICLE FROM THIS STATE FOR USE IN THE PURCHASER'S STATE OF RESIDENCE AND
25 RELIEVES THE DEALER OR AUTHORIZED THIRD PARTY OF LIABILITY IN ACCORDANCE WITH
26 SECTION 42-5009.

27 H. IF A PURCHASER REGISTERS THE VEHICLE IN THIS STATE WITHIN THREE
28 HUNDRED SIXTY-FIVE DAYS AFTER THE ISSUANCE OF THE SPECIAL THIRTY DAY
29 NONRESIDENT REGISTRATION PERMIT, THE PURCHASER IS LIABLE IN AN AMOUNT EQUAL
30 TO ANY TAX, PENALTY AND INTEREST THAT THE MOTOR VEHICLE DEALER OR AUTHORIZED
31 THIRD PARTY WOULD HAVE BEEN REQUIRED TO PAY UNDER TITLE 42, CHAPTER 5. AT
32 THE TIME OF ISSUING THE SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT, A
33 MOTOR VEHICLE DEALER OR AUTHORIZED THIRD PARTY SHALL INFORM THE PURCHASER OF
34 THE LIABILITY DESCRIBED IN THIS SECTION.

35 I. THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF REVENUE
36 SHALL JOINTLY DEVELOP AND PRESCRIBE FORMS FOR THE MOTOR VEHICLE DEALER, THE
37 AUTHORIZED THIRD PARTY AND THE PURCHASER TO COMPLETE FOR THE PROPER
38 ADMINISTRATION AND ENFORCEMENT OF THIS SECTION.

39 J. COMPLIANCE WITH THIS SECTION AND SECTION 28-2154 ALLOWS DELIVERY OF
40 THE VEHICLE TO A NONRESIDENT PURCHASER IN THIS STATE AND RETAINS THE
41 APPLICABLE EXEMPTIONS PURSUANT TO SECTION 42-5061, SUBSECTION A, PARAGRAPH
42 28.

43 Sec. 3. Section 42-5061, Arizona Revised Statutes, is amended to read:
44 ~~42-5061.~~ Retail classification; definitions

45 A. The retail classification is comprised of the business of selling
46 tangible personal property at retail. The tax base for the retail

1 classification is the gross proceeds of sales or gross income derived from
2 the business. The tax imposed on the retail classification does not apply to
3 the gross proceeds of sales or gross income from:

4 1. Professional or personal service occupations or businesses which
5 involve sales or transfers of tangible personal property only as
6 inconsequential elements.

7 2. Services rendered in addition to selling tangible personal property
8 at retail.

9 3. Sales of warranty or service contracts. The storage, use or
10 consumption of tangible personal property provided under the conditions of
11 such contracts is subject to tax under section 42-5156.

12 4. Sales of tangible personal property by any nonprofit organization
13 organized and operated exclusively for charitable purposes and recognized by
14 the United States internal revenue service under section 501(c)(3) of the
15 internal revenue code.

16 5. Sales to persons engaged in business classified under the
17 restaurant classification of articles used by human beings for food, drink or
18 condiment, whether simple, mixed or compounded.

19 6. Business activity which is properly included in any other business
20 classification which is taxable under article 1 of this chapter.

21 7. The sale of stocks and bonds.

22 8. Drugs and medical oxygen, including delivery hose, mask or tent,
23 regulator and tank, on the prescription of a member of the medical, dental or
24 veterinarian profession who is licensed by law to administer such substances.

25 9. Prosthetic appliances as defined in section 23-501 prescribed or
26 recommended by a health professional licensed pursuant to title 32, chapter
27 7, 8, 11, 13, 14, 15, 16, 17 or 29.

28 10. Insulin, insulin syringes and glucose test strips.

29 11. Prescription eyeglasses or contact lenses.

30 12. Hearing aids as defined in section 36-1901.

31 13. Durable medical equipment which has a centers for medicare and
32 medicaid services common procedure code, is designated reimbursable by
33 medicare, is prescribed by a person who is licensed under title 32, chapter
34 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
35 customarily used to serve a medical purpose, is generally not useful to a
36 person in the absence of illness or injury and is appropriate for use in the
37 home.

38 14. Sales to nonresidents of this state for use outside this state if
39 the vendor ships or delivers the tangible personal property out of this
40 state.

41 15. Food, as provided in and subject to the conditions of article 3 of
42 this chapter and section 42-5074.

43 16. Items purchased with United States department of agriculture food
44 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
45 958) or food instruments issued under section 17 of the child nutrition act

1 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
2 section 1786).

3 17. Textbooks by any bookstore that are required by any state
4 university or community college.

5 18. Food and drink to a person who is engaged in business which is
6 classified under the restaurant classification and which provides such food
7 and drink without monetary charge to its employees for their own consumption
8 on the premises during the employees' hours of employment.

9 19. Articles of food, drink or condiment and accessory tangible
10 personal property to a school district if such articles and accessory
11 tangible personal property are to be prepared and served to persons for
12 consumption on the premises of a public school within the district during
13 school hours.

14 20. Lottery tickets or shares pursuant to title 5, chapter 5,
15 article 1.

16 21. The sale of precious metal bullion and monetized bullion to the
17 ultimate consumer, but the sale of coins or other forms of money for
18 manufacture into jewelry or works of art is subject to the tax. In this
19 paragraph:

20 (a) "Monetized bullion" means coins and other forms of money which are
21 manufactured from gold, silver or other metals and which have been or are
22 used as a medium of exchange in this or another state, the United States or a
23 foreign nation.

24 (b) "Precious metal bullion" means precious metal, including gold,
25 silver, platinum, rhodium and palladium, which has been smelted or refined so
26 that its value depends on its contents and not on its form.

27 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
28 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
29 valid single trip use fuel tax permit issued under section 28-5739, sales of
30 aviation fuel which are subject to the tax imposed under section 28-8344 and
31 sales of jet fuel which are subject to the tax imposed under article 8 of
32 this chapter.

33 23. Tangible personal property sold to a person engaged in the business
34 of leasing or renting such property under the personal property rental
35 classification if such property is to be leased or rented by such person.

36 24. Tangible personal property sold in interstate or foreign commerce
37 if prohibited from being so taxed by the Constitution of the United States or
38 the constitution of this state.

39 25. Tangible personal property sold to:

40 (a) A qualifying hospital as defined in section 42-5001.

41 (b) A qualifying health care organization as defined in section
42 42-5001 if the tangible personal property is used by the organization solely
43 to provide health and medical related educational and charitable services.

44 (c) A qualifying health care organization as defined in section
45 42-5001 if the organization is dedicated to providing educational,
46 therapeutic, rehabilitative and family medical education training for blind,

1 visually impaired and multihandicapped children from the time of birth to age
2 twenty-one.

3 (d) A qualifying community health center as defined in section
4 42-5001.

5 (e) A nonprofit charitable organization that has qualified under
6 section 501(c)(3) of the internal revenue code and that regularly serves
7 meals to the needy and indigent on a continuing basis at no cost.

8 (f) For taxable periods beginning from and after June 30, 2001, a
9 nonprofit charitable organization that has qualified under section 501(c)(3)
10 of the internal revenue code and that provides residential apartment housing
11 for low income persons over sixty-two years of age in a facility that
12 qualifies for a federal housing subsidy, if the tangible personal property is
13 used by the organization solely to provide residential apartment housing for
14 low income persons over sixty-two years of age in a facility that qualifies
15 for a federal housing subsidy.

16 26. Magazines or other periodicals or other publications by this state
17 to encourage tourist travel.

18 27. Tangible personal property sold to a person that is subject to tax
19 under this article by reason of being engaged in business classified under
20 the prime contracting classification under section 42-5075, or to a
21 subcontractor working under the control of a prime contractor that is subject
22 to tax under article 1 of this chapter, if the property so sold is any of the
23 following:

24 (a) Incorporated or fabricated by the person into any real property,
25 structure, project, development or improvement as part of the business.

26 (b) Used in environmental response or remediation activities under
27 section 42-5075, subsection B, paragraph 6.

28 (c) Incorporated or fabricated by the person into any lake facility
29 development in a commercial enhancement reuse district under conditions
30 prescribed for the deduction allowed by section 42-5075, subsection B,
31 paragraph 8.

32 28. The sale of a motor vehicle to:

33 (a) A nonresident of this state if the purchaser's state of residence
34 does not allow a corresponding use tax exemption to the tax imposed by
35 article 1 of this chapter and if the nonresident has secured a special
36 ~~thirty-day~~ THIRTY DAY nonresident registration ~~of~~ PERMIT FOR the vehicle AS
37 PRESCRIBED by ~~applying according to section~~ SECTIONS 28-2154 AND 28-2154.01.

38 (b) An enrolled member of an Indian tribe who resides on the Indian
39 reservation established for that tribe.

40 29. Tangible personal property purchased in this state by a nonprofit
41 charitable organization that has qualified under section 501(c)(3) of the
42 United States internal revenue code and that engages in and uses such
43 property exclusively for training, job placement or rehabilitation programs
44 or testing for mentally or physically handicapped persons.

45 30. Sales of tangible personal property by a nonprofit organization
46 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)

1 of the internal revenue code if the organization is associated with a major
2 league baseball team or a national touring professional golfing association
3 and no part of the organization's net earnings inures to the benefit of any
4 private shareholder or individual.

5 31. Sales of commodities, as defined by title 7 United States Code
6 section 2, that are consigned for resale in a warehouse in this state in or
7 from which the commodity is deliverable on a contract for future delivery
8 subject to the rules of a commodity market regulated by the United States
9 commodity futures trading commission.

10 32. Sales of tangible personal property by a nonprofit organization
11 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
12 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
13 sponsors or operates a rodeo featuring primarily farm and ranch animals and
14 no part of the organization's net earnings inures to the benefit of any
15 private shareholder or individual.

16 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
17 propagative material to persons who use those items to commercially produce
18 agricultural, horticultural, viticultural or floricultural crops in this
19 state.

20 34. Machinery, equipment, technology or related supplies that are only
21 useful to assist a person who is physically disabled as defined in section
22 46-191, has a developmental disability as defined in section 36-551 or has a
23 head injury as defined in section 41-3201 to be more independent and
24 functional.

25 35. Sales of tangible personal property that is shipped or delivered
26 directly to a destination outside the United States for use in that foreign
27 country.

28 36. Sales of natural gas or liquefied petroleum gas used to propel a
29 motor vehicle.

30 37. Paper machine clothing, such as forming fabrics and dryer felts,
31 sold to a paper manufacturer and directly used or consumed in paper
32 manufacturing.

33 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
34 sold to a qualified environmental technology manufacturer, producer or
35 processor as defined in section 41-1514.02 and directly used or consumed in
36 the generation or provision of on-site power or energy solely for
37 environmental technology manufacturing, producing or processing or
38 environmental protection. This paragraph shall apply for fifteen full
39 consecutive calendar or fiscal years from the date the first paper
40 manufacturing machine is placed in service. In the case of an environmental
41 technology manufacturer, producer or processor who does not manufacture
42 paper, the time period shall begin with the date the first manufacturing,
43 processing or production equipment is placed in service.

44 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
45 processing, fabricating, mining, refining, metallurgical operations, research
46 and development and, beginning on January 1, 1999, printing, if using or

1 consuming the chemicals, alone or as part of an integrated system of
2 chemicals, involves direct contact with the materials from which the product
3 is produced for the purpose of causing or permitting a chemical or physical
4 change to occur in the materials as part of the production process. This
5 paragraph does not include chemicals that are used or consumed in activities
6 such as packaging, storage or transportation but does not affect any
7 deduction for such chemicals that is otherwise provided by this section. For
8 purposes of this paragraph, "printing" means a commercial printing operation
9 and includes job printing, engraving, embossing, copying and bookbinding.

10 40. Through December 31, 1994, personal property liquidation
11 transactions, conducted by a personal property liquidator. From and after
12 December 31, 1994, personal property liquidation transactions shall be
13 taxable under this section provided that nothing in this subsection shall be
14 construed to authorize the taxation of casual activities or transactions
15 under this chapter. In this paragraph:

16 (a) "Personal property liquidation transaction" means a sale of
17 personal property made by a personal property liquidator acting solely on
18 behalf of the owner of the personal property sold at the dwelling of the
19 owner or upon the death of any owner, on behalf of the surviving spouse, if
20 any, any devisee or heir or the personal representative of the estate of the
21 deceased, if one has been appointed.

22 (b) "Personal property liquidator" means a person who is retained to
23 conduct a sale in a personal property liquidation transaction.

24 41. Sales of food, drink and condiment for consumption within the
25 premises of any prison, jail or other institution under the jurisdiction of
26 the state department of corrections, the department of public safety, the
27 department of juvenile corrections or a county sheriff.

28 42. A motor vehicle and any repair and replacement parts and tangible
29 personal property becoming a part of such motor vehicle sold to a motor
30 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
31 and who is engaged in the business of leasing or renting such property.

32 43. Livestock and poultry feed, salts, vitamins and other additives for
33 livestock or poultry consumption that are sold to persons who are engaged in
34 producing livestock, poultry, or livestock or poultry products or who are
35 engaged in feeding livestock or poultry commercially. For purposes of this
36 paragraph, "poultry" includes ratites.

37 44. Sales of implants used as growth promotants and injectable
38 medicines, not already exempt under paragraph 8 of this subsection, for
39 livestock or poultry owned by or in possession of persons who are engaged in
40 producing livestock, poultry, or livestock or poultry products or who are
41 engaged in feeding livestock or poultry commercially. For purposes of this
42 paragraph, "poultry" includes ratites.

43 45. Sales of motor vehicles at auction to nonresidents of this state
44 for use outside this state if the vehicles are shipped or delivered out of
45 this state, regardless of where title to the motor vehicles passes or its
46 free on board point.

1 46. Tangible personal property sold to a person engaged in business and
2 subject to tax under the transient lodging classification if the tangible
3 personal property is a personal hygiene item or articles used by human beings
4 for food, drink or condiment, except alcoholic beverages, which are furnished
5 without additional charge to and intended to be consumed by the transient
6 during the transient's occupancy.

7 47. Sales of alternative fuel, as defined in section 1-215, to a used
8 oil fuel burner who has received a permit to burn used oil or used oil fuel
9 under section 49-426 or 49-480.

10 48. Sales of materials that are purchased by or for publicly funded
11 libraries including school district libraries, charter school libraries,
12 community college libraries, state university libraries or federal, state,
13 county or municipal libraries for use by the public as follows:

14 (a) Printed or photographic materials, beginning August 7, 1985.

15 (b) Electronic or digital media materials, beginning July 17, 1994.

16 49. Tangible personal property sold to a commercial airline and
17 consisting of food, beverages and condiments and accessories used for serving
18 the food and beverages, if those items are to be provided without additional
19 charge to passengers for consumption in flight. For purposes of this
20 paragraph, "commercial airline" means a person holding a federal certificate
21 of public convenience and necessity or foreign air carrier permit for air
22 transportation to transport persons, property or United States mail in
23 intrastate, interstate or foreign commerce.

24 50. Sales of alternative fuel vehicles, ~~as defined in section 43-1086,~~
25 if the vehicle was manufactured as a diesel fuel vehicle and converted to
26 operate on alternative fuel and equipment that is installed in a conventional
27 diesel fuel motor vehicle to convert the vehicle to operate on an alternative
28 fuel, as defined in section 1-215.

29 51. Sales of any spirituous, vinous or malt liquor by a person that is
30 licensed in this state as a wholesaler by the department of liquor licenses
31 and control pursuant to title 4, chapter 2, article 1.

32 52. Sales of tangible personal property to be incorporated or installed
33 as part of environmental response or remediation activities under section
34 42-5075, subsection B, paragraph 6.

35 53. Sales of tangible personal property by a nonprofit organization
36 that is exempt from taxation under section 501(c)(6) of the internal revenue
37 code if the organization produces, organizes or promotes cultural or civic
38 related festivals or events and no part of the organization's net earnings
39 inures to the benefit of any private shareholder or individual.

40 B. In addition to the deductions from the tax base prescribed by
41 subsection A of this section, the gross proceeds of sales or gross income
42 derived from sales of the following categories of tangible personal property
43 shall be deducted from the tax base:

44 1. Machinery, or equipment, used directly in manufacturing,
45 processing, fabricating, job printing, refining or metallurgical operations.
46 The terms "manufacturing", "processing", "fabricating", "job printing",

1 "refining" and "metallurgical" as used in this paragraph refer to and include
2 those operations commonly understood within their ordinary meaning.
3 "Metallurgical operations" includes leaching, milling, precipitating,
4 smelting and refining.

5 2. Mining machinery, or equipment, used directly in the process of
6 extracting ores or minerals from the earth for commercial purposes, including
7 equipment required to prepare the materials for extraction and handling,
8 loading or transporting such extracted material to the surface. "Mining"
9 includes underground, surface and open pit operations for extracting ores and
10 minerals.

11 3. Tangible personal property sold to persons engaged in business
12 classified under the telecommunications classification and consisting of
13 central office switching equipment, switchboards, private branch exchange
14 equipment, microwave radio equipment and carrier equipment including optical
15 fiber, coaxial cable and other transmission media which are components of
16 carrier systems.

17 4. Machinery, equipment or transmission lines used directly in
18 producing or transmitting electrical power, but not including distribution.
19 Transformers and control equipment used at transmission substation sites
20 constitute equipment used in producing or transmitting electrical power.

21 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
22 to be used as breeding or production stock, including sales of breedings or
23 ownership shares in such animals used for breeding or production.

24 6. Pipes or valves four inches in diameter or larger used to transport
25 oil, natural gas, artificial gas, water or coal slurry, including compressor
26 units, regulators, machinery and equipment, fittings, seals and any other
27 part that is used in operating the pipes or valves.

28 7. Aircraft, navigational and communication instruments and other
29 accessories and related equipment sold to:

30 (a) A person holding a federal certificate of public convenience and
31 necessity, a supplemental air carrier certificate under federal aviation
32 regulations (14 Code of Federal Regulations part 121) or a foreign air
33 carrier permit for air transportation for use as or in conjunction with or
34 becoming a part of aircraft to be used to transport persons, property or
35 United States mail in intrastate, interstate or foreign commerce.

36 (b) Any foreign government for use by such government outside of this
37 state.

38 (c) Persons who are not residents of this state and who will not use
39 such property in this state other than in removing such property from this
40 state. This subdivision also applies to corporations that are not
41 incorporated in this state, regardless of maintaining a place of business in
42 this state, if the principal corporate office is located outside this state
43 and the property will not be used in this state other than in removing the
44 property from this state.

45 8. Machinery, tools, equipment and related supplies used or consumed
46 directly in repairing, remodeling or maintaining aircraft, aircraft engines

1 or aircraft component parts by or on behalf of a certificated or licensed
2 carrier of persons or property.

3 9. Railroad rolling stock, rails, ties and signal control equipment
4 used directly to transport persons or property.

5 10. Machinery or equipment used directly to drill for oil or gas or
6 used directly in the process of extracting oil or gas from the earth for
7 commercial purposes.

8 11. Buses or other urban mass transit vehicles which are used directly
9 to transport persons or property for hire or pursuant to a governmentally
10 adopted and controlled urban mass transportation program and which are sold
11 to bus companies holding a federal certificate of convenience and necessity
12 or operated by any city, town or other governmental entity or by any person
13 contracting with such governmental entity as part of a governmentally adopted
14 and controlled program to provide urban mass transportation.

15 12. Groundwater measuring devices required under section 45-604.

16 13. New machinery and equipment consisting of tractors, tractor-drawn
17 implements, self-powered implements, machinery and equipment necessary for
18 extracting milk, and machinery and equipment necessary for cooling milk and
19 livestock, and drip irrigation lines not already exempt under paragraph 6 of
20 this subsection and that are used for commercial production of agricultural,
21 horticultural, viticultural and floricultural crops and products in this
22 state. In this paragraph:

23 (a) "New machinery and equipment" means machinery and equipment which
24 have never been sold at retail except pursuant to leases or rentals which do
25 not total two years or more.

26 (b) "Self-powered implements" includes machinery and equipment that
27 are electric-powered.

28 14. Machinery or equipment used in research and development. In this
29 paragraph, "research and development" means basic and applied research in the
30 sciences and engineering, and designing, developing or testing prototypes,
31 processes or new products, including research and development of computer
32 software that is embedded in or an integral part of the prototype or new
33 product or that is required for machinery or equipment otherwise exempt under
34 this section to function effectively. Research and development do not
35 include manufacturing quality control, routine consumer product testing,
36 market research, sales promotion, sales service, research in social sciences
37 or psychology, computer software research that is not included in the
38 definition of research and development, or other nontechnological activities
39 or technical services.

40 15. Machinery and equipment that are purchased by or on behalf of the
41 owners of a soundstage complex and primarily used for motion picture,
42 multimedia or interactive video production in the complex. This paragraph
43 applies only if the initial construction of the soundstage complex begins
44 after June 30, 1996 and before January 1, 2002 and the machinery and
45 equipment are purchased before the expiration of five years after the start
46 of initial construction. For purposes of this paragraph:

1 (a) "Motion picture, multimedia or interactive video production"
2 includes products for theatrical and television release, educational
3 presentations, electronic retailing, documentaries, music videos, industrial
4 films, CD-ROM, video game production, commercial advertising and television
5 episode production and other genres that are introduced through developing
6 technology.

7 (b) "Soundstage complex" means a facility of multiple stages including
8 production offices, construction shops and related areas, prop and costume
9 shops, storage areas, parking for production vehicles and areas that are
10 leased to businesses that complement the production needs and orientation of
11 the overall facility.

12 16. Tangible personal property that is used by either of the following
13 to receive, store, convert, produce, generate, decode, encode, control or
14 transmit telecommunications information:

15 (a) Any direct broadcast satellite television or data transmission
16 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
17 100.

18 (b) Any satellite television or data transmission facility, if both of
19 the following conditions are met:

20 (i) Over two-thirds of the transmissions, measured in megabytes,
21 transmitted by the facility during the test period were transmitted to or on
22 behalf of one or more direct broadcast satellite television or data
23 transmission services that operate pursuant to 47 Code of Federal Regulations
24 parts 25 and 100.

25 (ii) Over two-thirds of the transmissions, measured in megabytes,
26 transmitted by or on behalf of those direct broadcast television or data
27 transmission services during the test period were transmitted by the facility
28 to or on behalf of those services.

29 For purposes of subdivision (b) of this paragraph, "test period" means the
30 three hundred sixty-five day period beginning on the later of the date on
31 which the tangible personal property is purchased or the date on which the
32 direct broadcast satellite television or data transmission service first
33 transmits information to its customers.

34 17. Clean rooms that are used for manufacturing, processing,
35 fabrication or research and development, as defined in paragraph 14 of this
36 subsection, of semiconductor products. For purposes of this paragraph,
37 "clean room" means all property that comprises or creates an environment
38 where humidity, temperature, particulate matter and contamination are
39 precisely controlled within specified parameters, without regard to whether
40 the property is actually contained within that environment or whether any of
41 the property is affixed to or incorporated into real property. Clean room:

42 (a) Includes the integrated systems, fixtures, piping, movable
43 partitions, lighting and all property that is necessary or adapted to reduce
44 contamination or to control airflow, temperature, humidity, chemical purity
45 or other environmental conditions or manufacturing tolerances, as well as the

1 production machinery and equipment operating in conjunction with the clean
2 room environment.

3 (b) Does not include the building or other permanent, nonremovable
4 component of the building that houses the clean room environment.

5 18. Machinery and equipment used directly in the feeding of poultry,
6 the environmental control of housing for poultry, the movement of eggs within
7 a production and packaging facility or the sorting or cooling of eggs. This
8 exemption does not apply to vehicles used for transporting eggs.

9 19. Machinery or equipment, including related structural components,
10 that is employed in connection with manufacturing, processing, fabricating,
11 job printing, refining, mining, natural gas pipelines, metallurgical
12 operations, telecommunications, producing or transmitting electricity or
13 research and development and that is used directly to meet or exceed rules or
14 regulations adopted by the federal energy regulatory commission, the United
15 States environmental protection agency, the United States nuclear regulatory
16 commission, the Arizona department of environmental quality or a political
17 subdivision of this state to prevent, monitor, control or reduce land, water
18 or air pollution.

19 20. Machinery and equipment that are sold to a person engaged in the
20 commercial production of livestock, livestock products or agricultural,
21 horticultural, viticultural or floricultural crops or products in this state
22 and that are used directly and primarily to prevent, monitor, control or
23 reduce air, water or land pollution.

24 21. Machinery or equipment that enables a television station to
25 originate and broadcast or to receive and broadcast digital television
26 signals and that was purchased to facilitate compliance with the
27 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
28 Code section 336) and the federal communications commission order issued
29 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
30 not exempt any of the following:

31 (a) Repair or replacement parts purchased for the machinery or
32 equipment described in this paragraph.

33 (b) Machinery or equipment purchased to replace machinery or equipment
34 for which an exemption was previously claimed and taken under this paragraph.

35 (c) Any machinery or equipment purchased after the television station
36 has ceased analog broadcasting, or purchased after November 1, 2009,
37 whichever occurs first.

38 C. The deductions provided by subsection B of this section do not
39 include sales of:

40 1. Expendable materials. For purposes of this paragraph, expendable
41 materials do not include any of the categories of tangible personal property
42 specified in subsection B of this section regardless of the cost or useful
43 life of that property.

44 2. Janitorial equipment and hand tools.

45 3. Office equipment, furniture and supplies.

1 4. Tangible personal property used in selling or distributing
2 activities, other than the telecommunications transmissions described in
3 subsection B, paragraph 16 of this section.

4 5. Motor vehicles required to be licensed by this state, except buses
5 or other urban mass transit vehicles specifically exempted pursuant to
6 subsection B, paragraph 11 of this section, without regard to the use of such
7 motor vehicles.

8 6. Shops, buildings, docks, depots and all other materials of whatever
9 kind or character not specifically included as exempt.

10 7. Motors and pumps used in drip irrigation systems.

11 D. In addition to the deductions from the tax base prescribed by
12 subsection A of this section, there shall be deducted from the tax base the
13 gross proceeds of sales or gross income derived from sales of machinery,
14 equipment, materials and other tangible personal property used directly and
15 predominantly to construct a qualified environmental technology
16 manufacturing, producing or processing facility as described in section
17 41-1514.02. This subsection applies for ten full consecutive calendar or
18 fiscal years after the start of initial construction.

19 E. In computing the tax base, gross proceeds of sales or gross income
20 from retail sales of heavy trucks and trailers does not include any amount
21 attributable to federal excise taxes imposed by 26 United States Code section
22 4051.

23 F. In computing the tax base, gross proceeds of sales or gross income
24 from the sale of use fuel, as defined in section 28-5601, does not include
25 any amount attributable to federal excise taxes imposed by 26 United States
26 Code section 4091.

27 G. If a person is engaged in an occupation or business to which
28 subsection A of this section applies, the person's books shall be kept so as
29 to show separately the gross proceeds of sales of tangible personal property
30 and the gross income from sales of services, and if not so kept the tax shall
31 be imposed on the total of the person's gross proceeds of sales of tangible
32 personal property and gross income from services.

33 H. If a person is engaged in the business of selling tangible personal
34 property at both wholesale and retail, the tax under this section applies
35 only to the gross proceeds of the sales made other than at wholesale if the
36 person's books are kept so as to show separately the gross proceeds of sales
37 of each class, and if the books are not so kept, the tax under this section
38 applies to the gross proceeds of every sale so made.

39 I. A person who engages in manufacturing, baling, crating, boxing,
40 barreling, canning, bottling, sacking, preserving, processing or otherwise
41 preparing for sale or commercial use any livestock, agricultural or
42 horticultural product or any other product, article, substance or commodity
43 and who sells the product of such business at retail in this state is deemed,
44 as to such sales, to be engaged in business classified under the retail
45 classification. This subsection does not apply to businesses classified
46 under the:

- 1 1. Transporting classification.
- 2 2. Utilities classification.
- 3 3. Telecommunications classification.
- 4 4. Pipeline classification.
- 5 5. Private car line classification.
- 6 6. Publication classification.
- 7 7. Job printing classification.
- 8 8. Prime contracting classification.
- 9 9. Owner builder sales classification.
- 10 10. Restaurant classification.
- 11 J. The gross proceeds of sales or gross income derived from the
- 12 following shall be deducted from the tax base for the retail classification:
- 13 1. Sales made directly to the United States government or its
- 14 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 15 2. Sales made directly to a manufacturer, modifier, assembler or
- 16 repairer if such sales are of any ingredient or component part of products
- 17 sold directly to the United States government or its departments or agencies
- 18 by the manufacturer, modifier, assembler or repairer.
- 19 3. Overhead materials or other tangible personal property that is used
- 20 in performing a contract between the United States government and a
- 21 manufacturer, modifier, assembler or repairer, including property used in
- 22 performing a subcontract with a government contractor who is a manufacturer,
- 23 modifier, assembler or repairer, to which title passes to the government
- 24 under the terms of the contract or subcontract.
- 25 4. Sales of overhead materials or other tangible personal property to
- 26 a manufacturer, modifier, assembler or repairer if the gross proceeds of
- 27 sales or gross income derived from the property by the manufacturer,
- 28 modifier, assembler or repairer will be exempt under paragraph 3 of this
- 29 subsection.
- 30 K. There shall be deducted from the tax base fifty per cent of the
- 31 gross proceeds or gross income from any sale of tangible personal property
- 32 made directly to the United States government or its departments or agencies,
- 33 which is not deducted under subsection J of this section.
- 34 L. The department shall require every person claiming a deduction
- 35 provided by subsection J or K of this section to file on forms prescribed by
- 36 the department at such times as the department directs a sworn statement
- 37 disclosing the name of the purchaser and the exact amount of sales on which
- 38 the exclusion or deduction is claimed.
- 39 M. In computing the tax base, gross proceeds of sales or gross income
- 40 does not include:
- 41 1. A manufacturer's cash rebate on the sales price of a motor vehicle
- 42 if the buyer assigns the buyer's right in the rebate to the retailer.
- 43 2. The waste tire disposal fee imposed pursuant to section 44-1302.
- 44 N. There shall be deducted from the tax base the amount received from
- 45 sales of solar energy devices, but the deduction shall not exceed five
- 46 thousand dollars for each solar energy device. Before deducting any amount

1 under this subsection, the retailer shall register with the department as a
2 solar energy retailer. By registering, the retailer acknowledges that it
3 will make its books and records relating to sales of solar energy devices
4 available to the department for examination.

5 O. In computing the tax base in the case of the sale or transfer of
6 wireless telecommunications equipment as an inducement to a customer to enter
7 into or continue a contract for telecommunications services that are taxable
8 under section 42-5064, gross proceeds of sales or gross income does not
9 include any sales commissions or other compensation received by the retailer
10 as a result of the customer entering into or continuing a contract for the
11 telecommunications services.

12 P. For the purposes of this section, a sale of wireless
13 telecommunications equipment to a person who holds the equipment for sale or
14 transfer to a customer as an inducement to enter into or continue a contract
15 for telecommunications services that are taxable under section 42-5064 is
16 considered to be a sale for resale in the regular course of business.

17 Q. Retail sales of prepaid calling cards or prepaid authorization
18 numbers for telecommunications services, including sales of reauthorization
19 of a prepaid card or authorization number, are subject to tax under this
20 section.

21 R. For the purposes of this section, the diversion of gas from a
22 pipeline by a person engaged in the business of operating a natural or
23 artificial gas pipeline, for the sole purpose of fueling compressor equipment
24 to pressurize the pipeline, is not a sale of the gas to the operator of the
25 pipeline.

26 S. If a seller is entitled to a deduction pursuant to subsection B,
27 paragraph 16, subdivision (b) of this section, the department may require the
28 purchaser to establish that the requirements of subsection B, paragraph 16,
29 subdivision (b) of this section have been satisfied. If the purchaser cannot
30 establish that the requirements of subsection B, paragraph 16, subdivision
31 (b) of this section have been satisfied, the purchaser is liable in an amount
32 equal to any tax, penalty and interest which the seller would have been
33 required to pay under article 1 of this chapter if the seller had not made a
34 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
35 section. Payment of the amount under this subsection exempts the purchaser
36 from liability for any tax imposed under article 4 of this chapter and
37 related to the tangible personal property purchased. The amount shall be
38 treated as transaction privilege tax to the purchaser and as tax revenues
39 collected from the seller to designate the distribution base pursuant to
40 section 42-5029.

41 T. For purposes of section 42-5032.01, the department shall separately
42 account for revenues collected under the retail classification from
43 businesses selling tangible personal property at retail:

44 1. On the premises of a multipurpose facility that is owned, leased or
45 operated by the tourism and sports authority pursuant to title 5, chapter 8.

1 2. At professional football contests that are held in a stadium
2 located on the campus of an institution under the jurisdiction of the Arizona
3 board of regents.

4 U. IN COMPUTING THE TAX BASE FOR THE SALE OF A MOTOR VEHICLE TO A
5 NONRESIDENT OF THIS STATE, IF THE PURCHASER'S STATE OF RESIDENCE ALLOWS A
6 CORRESPONDING USE TAX EXEMPTION TO THE TAX IMPOSED BY ARTICLE 1 OF THIS
7 CHAPTER AND THE RATE OF THE TAX IN THE PURCHASER'S STATE OF RESIDENCE IS
8 LOWER THAN THE RATE PRESCRIBED IN ARTICLE 1 OF THIS CHAPTER, AND THE
9 NONRESIDENT HAS SECURED A SPECIAL THIRTY DAY NONRESIDENT REGISTRATION PERMIT
10 FOR THE VEHICLE AS PRESCRIBED BY SECTIONS 28-2154 AND 28-2154.01, THERE SHALL
11 BE DEDUCTED FROM THE TAX BASE A PORTION OF THE GROSS PROCEEDS OR GROSS INCOME
12 FROM THE SALE SO THAT THE AMOUNT OF TRANSACTION PRIVILEGE TAX THAT IS PAID IN
13 THIS STATE IS EQUAL TO THE EXCISE TAX THAT IS IMPOSED BY THE PURCHASER'S
14 STATE OF RESIDENCE ON THE NONEXEMPT SALE OR USE OF THE MOTOR VEHICLE.

15 ~~U.~~ V. For the purposes of this section:

16 1. "Aircraft" includes:

17 (a) An airplane flight simulator that is approved by the federal
18 aviation administration for use as a phase II or higher flight simulator
19 under appendix H, 14 Code of Federal Regulations part 121.

20 (b) Tangible personal property that is permanently affixed or attached
21 as a component part of an aircraft that is owned or operated by a
22 certificated or licensed carrier of persons or property.

23 2. "Other accessories and related equipment" includes aircraft
24 accessories and equipment such as ground service equipment that physically
25 contact aircraft at some point during the overall carrier operation.

26 3. "Selling at retail" means a sale for any purpose other than for
27 resale in the regular course of business in the form of tangible personal
28 property, but transfer of possession, lease and rental as used in the
29 definition of sale mean only such transactions as are found on investigation
30 to be in lieu of sales as defined without the words lease or rental.

31 ~~V.~~ W. For purposes of subsection J of this section:

32 1. "Assembler" means a person who unites or combines products, wares
33 or articles of manufacture so as to produce a change in form or substance
34 without changing or altering the component parts.

35 2. "Manufacturer" means a person who is principally engaged in the
36 fabrication, production or manufacture of products, wares or articles for use
37 from raw or prepared materials, imparting to those materials new forms,
38 qualities, properties and combinations.

39 3. "Modifier" means a person who reworks, changes or adds to products,
40 wares or articles of manufacture.

41 4. "Overhead materials" means tangible personal property, the gross
42 proceeds of sales or gross income derived from which would otherwise be
43 included in the retail classification, and which are used or consumed in the
44 performance of a contract, the cost of which is charged to an overhead
45 expense account and allocated to various contracts based upon generally

1 accepted accounting principles and consistent with government contract
2 accounting standards.

3 5. "Repairer" means a person who restores or renews products, wares or
4 articles of manufacture.

5 6. "Subcontract" means an agreement between a contractor and any
6 person who is not an employee of the contractor for furnishing of supplies or
7 services that, in whole or in part, are necessary to the performance of one
8 or more government contracts, or under which any portion of the contractor's
9 obligation under one or more government contracts is performed, undertaken or
10 assumed and that includes provisions causing title to overhead materials or
11 other tangible personal property used in the performance of the subcontract
12 to pass to the government or that includes provisions incorporating such
13 title passing clauses in a government contract into the subcontract.

14 Sec. 4. Appropriation; purpose

15 The sum of \$37,000 is appropriated from the state highway user revenue
16 fund in fiscal year 2004-2005 to the department of transportation for the
17 purpose of implementing this act.